

110TH CONGRESS
1ST SESSION

S. 2098

To establish the Northern Plains Heritage Area in the State of North Dakota.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 2007

Mr. DORGAN (for himself and Mr. CONRAD) introduced the following bill;
which was read twice and referred to the Committee on Energy and Nat-
ural Resources

A BILL

To establish the Northern Plains Heritage Area in the State
of North Dakota.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Northern Plains Herit-
5 age Area Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) HERITAGE AREA.—The term “Heritage
9 Area” means the Northern Plains Heritage Area es-
10 tablished by section 3(a).

1 (2) MANAGEMENT ENTITY.—The term “man-
2 agement entity” means the management entity for
3 the Heritage Area designated by section 3(d).

4 (3) MANAGEMENT PLAN.—The term “manage-
5 ment plan” means the management plan for the
6 Heritage Area required under section 5.

7 (4) MAP.—The term “map” means the map en-
8 titled “Proposed Northern Plains National Heritage
9 Area”.

10 (5) SECRETARY.—The term “Secretary” means
11 the Secretary of the Interior.

12 (6) STATE.—The term “State” means the State
13 of North Dakota.

14 **SEC. 3. ESTABLISHMENT.**

15 (a) IN GENERAL.—There is established in the State
16 the Northern Plains National Heritage Area.

17 (b) BOUNDARIES.—The Heritage Area shall consist
18 of—

19 (1) a core area of resources in Burleigh,
20 McLean, Mercer, Morton, and Oliver Counties in the
21 State; and

22 (2) any sites, buildings, and districts within the
23 core area recommended by the management plan for
24 inclusion in the Heritage Area.

25 (c) MAP.—A map of the Heritage Area shall be—

1 (1) included in the management plan; and

2 (2) on file and available for public inspection in
3 the appropriate offices of the National Park Service.

4 (d) MANAGEMENT ENTITY.—The management entity
5 for the Heritage Area shall be the Northern Plains Herit-
6 age Foundation, a nonprofit corporation established under
7 the laws of the State.

8 **SEC. 4. ADMINISTRATION.**

9 (a) IN GENERAL.—For purposes of carrying out the
10 management plan, the Secretary, acting through the man-
11 agement entity, may use amounts made available under
12 this Act to—

13 (1) make grants to the State or a political sub-
14 division of the State, nonprofit organizations, and
15 other persons;

16 (2) enter into cooperative agreements with, or
17 provide technical assistance to, the State or a polit-
18 ical subdivision of the State, nonprofit organizations,
19 and other interested parties;

20 (3) hire and compensate staff, including individ-
21 uals with expertise in natural, cultural, and histor-
22 ical resources protection and heritage programming;

23 (4) obtain money or services from any source,
24 including under any other Federal law or program;

25 (5) contract for goods or services; and

1 (6) carry out any other activity that—

2 (A) furthers the purposes of the Heritage
3 Area; and

4 (B) is consistent with the approved man-
5 agement plan.

6 (b) DUTIES.—The management entity shall—

7 (1) in accordance with section 5, prepare and
8 submit a management plan for the Heritage Area to
9 the Secretary;

10 (2) give priority to implementing actions cov-
11 ered by the management plan, including assisting
12 units of local government, regional planning organi-
13 zations, and nonprofit organizations in carrying out
14 the approved management plan by—

15 (A) carrying out programs and projects
16 that recognize, protect, and enhance important
17 resource values in the Heritage Area;

18 (B) establishing and maintaining interpre-
19 tive exhibits and programs in the Heritage
20 Area;

21 (C) developing recreational and educational
22 opportunities in the Heritage Area;

23 (D) increasing public awareness of, and
24 appreciation for, natural, historical, scenic, and
25 cultural resources of the Heritage Area;

1 (E) protecting and restoring historic sites
2 and buildings in the Heritage Area that are
3 consistent with the themes of the Heritage
4 Area;

5 (F) ensuring that clear, consistent, and ap-
6 propriate signs identifying points of public ac-
7 cess and sites of interest are posted throughout
8 the Heritage Area; and

9 (G) promoting a wide range of partner-
10 ships among governments, organizations, and
11 individuals to further the Heritage Area;

12 (3) consider the interests of diverse units of
13 government, businesses, organizations, nonprofit
14 groups, and individuals in the Heritage Area in the
15 preparation and implementation of the management
16 plan;

17 (4) conduct meetings open to the public at least
18 semiannually regarding the development and imple-
19 mentation of the management plan;

20 (5) for any year for which Federal funds have
21 been received under this Act—

22 (A) submit an annual report to the Sec-
23 retary that describes the activities, expenses,
24 and income of the management entity, including
25 any grants to any other entities;

1 (B) make available to the Secretary for
2 audit all records relating to the expenditure of
3 the Federal funds and any matching funds; and

4 (C) require, with respect to all agreements
5 authorizing the expenditure of Federal funds by
6 other organizations, that the organizations re-
7 ceiving the Federal funds make available to the
8 Secretary for audit all records concerning the
9 expenditure of the funds; and

10 (6) encourage by appropriate means economic
11 viability that is consistent with the Heritage Area.

12 (c) PROHIBITION ON THE ACQUISITION OF REAL
13 PROPERTY.—The management entity shall not use Fed-
14 eral funds made available under this Act to acquire real
15 property or any interest in real property.

16 (d) COST-SHARING REQUIREMENT.—The Federal
17 share of the cost of any activity carried out using any Fed-
18 eral funds made available under this Act shall be 50 per-
19 cent.

20 (e) OTHER SOURCES.—Nothing in this Act precludes
21 the management entity from using Federal funds from
22 other sources for authorized purposes.

23 **SEC. 5. MANAGEMENT PLAN.**

24 (a) IN GENERAL.—Not later than 3 years after the
25 date of enactment of this Act, the management entity shall

1 submit to the Secretary for approval a proposed manage-
2 ment plan for the Heritage Area.

3 (b) REQUIREMENTS.—The management plan shall—

4 (1) incorporate an integrated and cooperative
5 approach for the protection, enhancement, and inter-
6 pretation of the natural, cultural, historic, scenic,
7 and recreational resources of the Heritage Area;

8 (2) take into consideration State and local
9 plans;

10 (3) include—

11 (A) an inventory of—

12 (i) the resources located in the core
13 area described in section 3(b)(1); and

14 (ii) any other property in the core
15 area that—

16 (I) is related to the themes of the
17 Heritage Area; and

18 (II) should be preserved, re-
19 stored, managed, or maintained be-
20 cause of the significance of the prop-
21 erty;

22 (B) comprehensive policies, strategies and
23 recommendations for the conservation, funding,
24 management, and development of the Heritage
25 Area;

1 (C) a description of actions that govern-
2 ments, private organizations, and individuals
3 have agreed to take to protect the natural, his-
4 torical and cultural resources of the Heritage
5 Area;

6 (D) a program of implementation for the
7 management plan by the management entity
8 that includes a description of—

9 (i) actions to facilitate ongoing col-
10 laboration among partners to promote
11 plans for resource protection, restoration,
12 and construction; and

13 (ii) specific commitments for imple-
14 mentation that have been made by the
15 management entity or any government, or-
16 ganization, or individual for the first 5
17 years of operation of the Heritage Area;

18 (E) the identification of sources of funding
19 for carrying out the management plan;

20 (F) analysis and recommendations for
21 means by which Federal, State, and local pro-
22 grams may best be coordinated to carry out this
23 Act, including recommendations for the role of
24 the National Park Service in the Heritage Area;
25 and

1 (G) an interpretive plan for the Heritage
2 Area; and

3 (4) recommend policies and strategies for re-
4 source management that consider and describe the
5 application of appropriate land and water manage-
6 ment techniques, including the development of inter-
7 governmental and interagency cooperative agree-
8 ments to protect the natural, historical, cultural,
9 educational, scenic, and recreational resources of the
10 Heritage Area.

11 (c) DEADLINE.—If a proposed management plan is
12 not submitted to the Secretary by the date that is 3 years
13 after the date of enactment of this Act, the management
14 entity shall be ineligible to receive additional funding
15 under this Act until the date on which the Secretary ap-
16 proves a management plan.

17 (d) APPROVAL OR DISAPPROVAL OF MANAGEMENT
18 PLAN.—

19 (1) IN GENERAL.—Not later than 180 days
20 after the date of receipt of the management plan
21 under subsection (a), the Secretary, in consultation
22 with the State, shall approve or disapprove the man-
23 agement plan.

1 (2) CRITERIA FOR APPROVAL.—In determining
2 whether to approve the management plan, the Sec-
3 retary shall consider whether—

4 (A) the management entity is representa-
5 tive of the diverse interests of the Heritage
6 Area, including governments, natural and his-
7 toric resource protection organizations, edu-
8 cational institutions, businesses, and rec-
9 reational organizations;

10 (B) the management entity has afforded
11 adequate opportunity, including public hearings,
12 for public and governmental involvement in the
13 preparation of the management plan; and

14 (C) the resource protection and interpreta-
15 tion strategies contained in the management
16 plan, if implemented, would adequately protect
17 the natural, historical, and cultural resources of
18 the Heritage Area.

19 (3) ACTION FOLLOWING DISAPPROVAL.—If the
20 Secretary disapproves the management plan under
21 paragraph (1), the Secretary shall—

22 (A) advise the management entity in writ-
23 ing of the reasons for the disapproval;

24 (B) make recommendations for revisions to
25 the management plan; and

1 (C) not later than 180 days after the re-
2 ceipt of any proposed revision of the manage-
3 ment plan from the management entity, ap-
4 prove or disapprove the proposed revision.

5 (4) AMENDMENTS.—

6 (A) IN GENERAL.—The Secretary shall ap-
7 prove or disapprove each amendment to the
8 management plan that the Secretary determines
9 would make a substantial change to the man-
10 agement plan.

11 (B) USE OF FUNDS.—The management
12 entity shall not use Federal funds authorized by
13 this Act to carry out any amendments to the
14 management plan until the Secretary has ap-
15 proved the amendments.

16 **SEC. 6. RELATIONSHIP TO OTHER FEDERAL AGENCIES.**

17 (a) IN GENERAL.—Nothing in this Act affects the au-
18 thority of a Federal agency to provide technical or finan-
19 cial assistance under any other law.

20 (b) TECHNICAL AND FINANCIAL ASSISTANCE.—

21 (1) IN GENERAL.—On the request of the man-
22 agement entity, the Secretary may provide financial
23 assistance and, on a reimbursable or nonreimburs-
24 able basis, technical assistance to the management

1 entity to develop and implement the management
2 plan.

3 (2) COOPERATIVE AGREEMENTS.—The Sec-
4 retary may enter into cooperative agreements with
5 the management entity and other public or private
6 entities to provide technical or financial assistance
7 under paragraph (1).

8 (3) PRIORITY.—In assisting the Heritage Area,
9 the Secretary shall give priority to actions that as-
10 sist in—

11 (A) conserving the significant natural, his-
12 toric, cultural, and scenic resources of the Her-
13 itage Area; and

14 (B) providing educational, interpretive, and
15 recreational opportunities consistent with the
16 purposes of the Heritage Area.

17 (c) CONSULTATION AND COORDINATION.—To the
18 maximum extent practicable, the head of any Federal
19 agency planning to conduct activities that may have an
20 impact on the Heritage Area is encouraged to consult and
21 coordinate the activities with the Secretary and the man-
22 agement entity.

23 (d) OTHER FEDERAL AGENCIES.—Nothing in this
24 Act—

1 (1) modifies or alters any laws (including regu-
 2 lations) authorizing a Federal agency to manage
 3 Federal land under the jurisdiction of the Federal
 4 agency;

5 (2) limits the discretion of a Federal land man-
 6 ager to implement an approved land use plan within
 7 the boundaries of the Heritage Area; or

8 (3) modifies, alters, or amends any authorized
 9 use of Federal land under the jurisdiction of a Fed-
 10 eral agency.

11 **SEC. 7. PRIVATE PROPERTY AND REGULATORY PROTEC-**
 12 **TIONS.**

13 Nothing in this Act—

14 (1) abridges the rights of any owner of public
 15 or private property, including the right to refrain
 16 from participating in any plan, project, program, or
 17 activity conducted within the Heritage Area;

18 (2) requires any property owner to—

19 (A) permit public access (including access
 20 by Federal, State, or local agencies) to the
 21 property of the property owner; or

22 (B) modify public access to, or use of, the
 23 property of the property owner under any other
 24 Federal, State, or local law;

1 (3) alters any land use regulation, approved
2 land use plan, or other regulatory authority of any
3 Federal, State, or local agency;

4 (4) conveys any land use or other regulatory
5 authority to the management entity;

6 (5) authorizes or implies the reservation or ap-
7 propriation of water or water rights;

8 (6) diminishes the authority of the State to
9 manage fish and wildlife, including the regulation of
10 fishing and hunting within the Heritage Area; or

11 (7) creates any liability, or affects any liability
12 under any other law, of any private property owner
13 with respect to any person injured on the private
14 property.

15 **SEC. 8. EVALUATION; REPORT.**

16 (a) IN GENERAL.—Not later than 3 years before the
17 date on which authority for Federal funding terminates
18 for the Heritage Area under section 10, the Secretary
19 shall—

20 (1) conduct an evaluation of the accomplish-
21 ments of the Heritage Area; and

22 (2) prepare a report in accordance with sub-
23 section (c).

24 (b) EVALUATION.—An evaluation conducted under
25 subsection (a)(1) shall—

1 (1) assess the progress of the management enti-
2 ty with respect to—

3 (A) accomplishing the purposes of this Act
4 for the Heritage Area; and

5 (B) achieving the goals and objectives of
6 the approved management plan for the Heritage
7 Area;

8 (2) analyze the Federal, State, local, and pri-
9 vate investments in the Heritage Area to determine
10 the leverage and impact of the investments; and

11 (3) review the management structure, partner-
12 ship relationships, and funding of the Heritage Area
13 for purposes of identifying the critical components
14 for sustainability of the Heritage Area.

15 (c) REPORT.—

16 (1) IN GENERAL.—Based on the evaluation con-
17 ducted under subsection (a)(1), the Secretary shall
18 prepare a report that includes recommendations for
19 the future role of the National Park Service, if any,
20 with respect to the Heritage Area.

21 (2) REQUIRED ANALYSIS.—If the report pre-
22 pared under paragraph (1) recommends that Fed-
23 eral funding for the Heritage Area be reauthorized,
24 the report shall include an analysis of—

1 (A) ways in which Federal funding for the
2 Heritage Area may be reduced or eliminated;
3 and

4 (B) the appropriate time period necessary
5 to achieve the recommended reduction or elimi-
6 nation.

7 (3) SUBMISSION TO CONGRESS.—On completion
8 of the report, the Secretary shall submit the report
9 to—

10 (A) the Committee on Energy and Natural
11 Resources of the Senate; and

12 (B) the Committee on Natural Resources
13 of the House of Representatives.

14 **SEC. 9. AUTHORIZATION OF APPROPRIATIONS.**

15 There is authorized to be appropriated to carry out
16 this Act \$10,000,000, of which not more than \$1,000,000
17 may be made available for any fiscal year.

18 **SEC. 10. TERMINATION OF AUTHORITY.**

19 The authority of the Secretary to provide assistance
20 under this Act terminates on the date that is 15 years
21 after the date of enactment of this Act.

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